NWRIC

October 27, 2017

Committee Secretary
Waste and recycling industry in Australia
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

RE WASTE AND RECYCLING INDUSTRY IN AUSTRALIA COMMONWEALTH REVIEW

The National Waste and Recycling Industry Council (NWRIC) acts as the industry's national policy setting body. Its core activity is to proactively engage with all of the industry's key stakeholders to promote solutions to the regulatory challenges facing the sector.

The founding members of the Council - Alex Fraser Group, Cleanaway, J. J. Richards and Sons, Solo Resource Recovery, Sims Metal Management, Suez, Toxfree, Remondis, ResourceCo and Veolia - represent the majority of the private capital invested into waste management and recycling assets in Australia.

While the Council is a national body, it also work pro-actively with Affiliates, which represent the interests of the industry at a State level. Through collective action, the Council and its State-based partners form a network representing the industry Australia wide.

RESPONSE TO THE TERMS OF REFERENCE

A) The quantity of solid waste generated and the rate of diversion of solid waste for recycling;

Data on waste and recycling rates are collected by the State EPAs and relevant state authorities. Data is also collected by the Australian Bureau of Statistics. The NWRIC supports returning funding to the ABS 'Waste Accounts program', discontinued in 2014[1]. The Council also supports improved State and Commonwealth measures to collect waste and recycling data.

B) The accreditation and management of landfills;

1. The NWRIC supports high landfill standards. Landfill standards should be risk based and universally enforced. The Council supports Victoria's Best Practise Environment Management (BEPM) for landfills[2] from the Victorian EPA as the nation's best standard. The Council believes that landfill standards should be nationally harmonised.
2. Licensing, DAs and planning regimes for landfills should allow for development in line with the waste hierarchy.
3. The NWRIC believes all landfills should apply full cost accounting. Full cost accounting includes landfill lining, gas capture, leachate treatment, a weighbridge, provision for closure & capping, asset replacement and aftercare. Many local government do not apply full cost accounting for landfills, instead pushing costs onto future generations. This practise also undermines good quality commercial landfill and distorts markets.
4. The NWRIC believes all waste facilities, regardless of size and type, should be licenced.

C) The extent of illegal landfilling;

[1] 4602.0.55.005 - Waste Account, Australia, Experimental Estimates, 2013
[2] Siting, design, operation and rehabilitation of landfills - publication 788.

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This is a matter for regulators and the police. The NWRIC supports strong enforcement from a well funded and resourced regulator. The Council believes that more revenue from the landfill levy should be made available to regulators and used for effective enforcement.

D) The role of landfill levies in determining the end destination of material, including the hypothecation of collected levies for enforcement and waste diversion purposes;
Landfill levies vary greatly across Australia, and these variations create market distortions.

Beyond price disparity, levies vary in the mechanism of their application and the definition of leviable waste. This creates a number of undesirable consequences, including;

A) The unnecessary movement of waste between jurisdictions to avoid levy costs. This issue has manifested most seriously in the transport of waste between metro Sydney and south east Queensland. However, this behaviour occurs everywhere there are significant disposal cost distortions.

B) Undermining the ability of private investors to create 'bankable' recycling infrastructure proposals, due to an uncertain regulatory environment.

C) High administrative costs, particularly for the application of complex schemes.

D) The potential for fraud created by mislabelling waste.

Finally, very high levies can undermine some (especially steel) recycling. This is because the levy on the disposal of recycling residuals reduces the competitiveness of materials sold into the international market.

The Council believes the national harmonisation of landfill levies is essential in order to prevent unnecessary waste transportation (market distortions) and to provide regulatory certainty for investors.

Where landfill levies are applied; they should be stable over the long term, simplified to reduce the potential for fraud and not applied in a manner which undermines the recovery of materials destined for international export. For clarity, the Council's support for levies is based on the following parameters;

1) If implemented, landfill levies should be part of a clearly articulated recycling strategy and be subject to regular performance review.

2) Waste levies and their governing regulations should be put in place for at least five years, and if the regulations are to change, industry should be given a minimum of 12 months' notice.

3) Landfill levies should be simplified as much as possible, to minimize administration costs and reduce the risk of fraud. This includes the reporting, administration and the payment of levies.

4) Waste levies should not be differentiated by waste type (other than for hazardous waste where identification can be supported by accompanying documentation) or waste origin.

5) Waste levies should be consistent across the largest jurisdiction possible, and ideally be applied in a manner that minimises 'border' market distortions.

6) Waste levies should be reduced by weight for all waste that is later genuinely recycled.

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7) Waste levies should not be applied in a manner which makes recycling uneconomical or less economical.

8) If a levy reduction on recycling residual is applied, transparent reporting should be put in place and overviewed by the State levy administrator.

9) Landfill levies should not be applied on waste volumes subject to bad debts.

E) The role of different incentives and collection methods in determining the quality and quantity of material collected for recycling.

The NWRIC have made a number of suggestions in regard to incentives to improve resource recovery. This include;

1. Long term, 'whole of government' site planning for waste and recycling infrastructure, on both 10 and 30 year timeframes.
2. The use of landfill levy revenue to create a 'recycling bank' which supports new infrastructure through low interest loans.
3. Discounts on the disposal of steel shredder floc from material genuinely recycled.
4. Support for programs to develop domestic markets for recycled materials.
5. Government procurement programs to better utilise recycled materials.

The NWRIC also calls on the Commonwealth Government to put in place mandatory product stewardship programs[3] which reflect the real cost of recycling materials. The programs should cover the priority wastes identified in the Commonwealth Product Stewardship list.[4]

F) The destination of material collected for recycling, including the extent of material reprocessing and the stockpiling of collected material.

The NWRIC supports recent initiatives by the Victorian EPA to introduce detailed fire and environmental risk stockpiling policies and supports similar policies being adopted across Australia.

Further, the NWRIC supports mass balance reporting to ensure stockpiling is not used to avoid paying landfill fees.

G) the current economic conditions in the industry, including the market for material collected for recycling;

The NWRIC believes that markets for the following materials are under severe stress - or have failed - where market failure means materials are being landfilled or stockpiled.

1. Glass - the current alternative is to put glass into construction materials including road base, these programs need to be expanded.
2. Soft plastics - the current alternative is to utilise for the materials for energy recovery or fuel manufacture.
3. End of life tyres - are also suitable for energy recovery or fuel manufacture. End of life tyres would benefit from a mandated product stewardship program.[5]

[3] Under the Product Stewardship Act 2011.
[4] 2016-17 Product List; Department of Environment and Energy.
[5] The NWRIC position on EPR scheme is available in our Policy Roadmap.

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H) The transportation of solid waste across state boundaries;

To prevent the unnecessary interstate transport of waste, the NWRIC has put forward the approach of 'levy portability', which means that waste levies are charged based on where the waste is generated. The Council believes this approach will support waste being processed as close to its points of generation as possible. A full description of the levy portability approach is available in Appendix A.

I) The role of the Australian Government in providing a coherent, efficient and environmentally responsible approach to solid waste management, including by facilitating a federal approach.

Waste and recycling enterprises are subject to regulation by both local and state level authorities, although they are also subject to some Commonwealth regulations, such as the Basel Convention.[6] These regulations vary enormously across jurisdictions, and this variation produces no economic, environmental or social benefit. This variation is also adding substantial business costs to the sector.

The Council supports the establishment of a simple, integrated national system for the identification, classification, treatment, disposal and monitoring of waste materials.

While there are many priorities for harmonisation, landfill levies create the most significant market distortions. Landfill levies not only vary in price, but also in the mechanism[7] by which they are applied, along with the definition of "leviable waste".[8]

In addition to landfill levies, a key barrier to a circular economy are the regulatory hurdles impeding the establishment of new waste and recycling facilities. These include planning regulations, development applications, EIS and licensing rules.

These barriers can be overcome by the introduction of simpler and faster regulatory hurdles that do not compromise safety or environmental standards. Further, the Council calls for improved state planning for waste management and recycling infrastructure. This planning will simplify and fast track development processes. Harmonisation of national landfill and recycling standards can be achieved through agreement at the Council of Australian Governments (COAG).

J) Any other related matters.

J1) Policy Roadmap

The NWRIC has published the 'Policy Roadmap for a Circular Economy'. This document describes regulatory action which efficiently will move Australia towards a circular economy.

J2) PFOS/PFAS

The Council notes the Victorian EPA is leading the national effort to develop a standard for the treatment and disposal of PFOS/PFAS. In regard to developing a new national standard, we would like to note the following;

[6] The Basel Convention
[7] For example, NSW has recently introduced laws to make all waste management facilities liable for the levies, including MRFs and transfer stations. In other States, landfill levies are applied at the landfill gate.
[8] As levies become more complex, fraud becomes more available. For example, differential levies on different waste streams (such as C&D and C&I) create an incentive to mis-label waste. Such behaviour harms companies which play by the rules.

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1. The NWRIC supports the precautionary principle in regard to the treatment of PFOS/PFAS contamination.

2. Throughout the process, it is important that the introduction of new regulatory requirements (in particular at landfills) are implemented with consultation with the industry and in a manner that enables compliance. For changes to compliance requirements, industry should be given sufficient notice to be able to install new processing plant.

3. The new requirements must recognise that many years of waste acceptance at landfills within the applicable jurisdictional regulations - they should not result in penalising a facility based upon 'backdated' changing thresholds.

4. In particular, Water Authorities should be directed and encouraged to accept trade waste from leachate treatment plants operating at engineered landfills. Notwithstanding that it is likely that there will be an increase of PFAS in treated effluent the larger impact of not having a disposal option for leachate has more potential to negatively impact the environment .

5. Further, it is important that PFOS/PFAS discharge standards not be set at a level (that is, zero or below drinking water standards) which will result in perverse environmental outcomes. Such outcomes could include;
    a. No disposal options available for landfill leachate,
    b. Very large new waste volumes being categorised at Prescribed Industrial Waste in Victoria or hazardous waste in other states and,
    c. The subsequent or potential stockpiling of biosolids or PFAS/PFOS contaminated wastes.

6. The Council believes that thermal destruction should be utilised to dispose of PFOS/PFAS processing residue.

For further information on any of these important matter, please contact me.

Sincerely,

Max Spedding
CEO, NWRIC

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APPENDIX A - THE NWRIC APPROACH TO UNNECESSARY INTERSTATE WASTE TRANSPORT

Document submitted to the HEPA in August 2017

Dear EPA Executive,

ABC's *Four Corners* Program on August 7 has become a catalyst for national action to review the waste and recycling industry. Three Government reviews have been commissioned into the industry - a review by a former judge on behalf of the Queensland Premier, a NSW Upper House inquiry and a Commonwealth Senate review. An important area of focus is 'unnecessary' interstate waste transport from Sydney to Queensland.

The National Waste and Recycling Industry Council (NWRIC or Council) understand a 'Heads of EPAs' (HEPA) task force has been given the responsibility of developing a solution for this pressing issue. The NWRIC represents ten of the largest waste and recycling companies in Australia[9], and also works as part of a national network of five jurisdictional[10] 'affiliates'. The Council has been in contact with HEPA on this issue over the past four months.

The NWRIC believes it has developed an approach will solve the problem of 'unnecessary' interstate waste transport. The Council proposes that landfill levies be made 'portable' across State borders, with with this strategy explained in more detail below.

The purpose of landfill levies

The underpinning strategy explaining the NSW Waste levy is the *NSW Waste and Resource Recovery Strategy 2014-21*, released in December 2014. "One of the NSW Government's key priority actions is to increase recycling to limit the need for new landfills, reduce landfill disposal and turn waste into valuable resources," the strategy says. Similar objectives are in place in other States where landfill levies are applied.

The levy changes proposed in this letter adhere to this strategy, as they will prevent waste being

[9] Alex Fraser Group, Cleanaway, J. J. Richards and Sons, Solo Resource Recovery, Sims Metal Management, Suez, Toxfree, Remondis, ResourceCo and Veolia.
[10] WRIQ (Queensland), WRI-NT (Northern Territory), WRI-SA (South Australia), WRI-WA (Western Australian) and the VWMA (Victoria).

transported to avoid a levy. 'Portability' will also create an economic incentive to build new recycling infrastructure where the waste is generated.

Levy changes - a long term solution

The issues of the unnecessary interstate transport of waste primarily arises between NSW and Queensland, due to the levy disparity. The Council notes this regulatory disparity could be solved by either implementing a landfill levy in Queensland of $40 per tonne or more, or by reducing the landfill levy in NSW on construction and demolition material down to $100 per tonne or less.

However, the NWRIC is aware the Queensland Government has committed not to introduce new taxes in this term of Government. Further, the NWRIC does not support the abrupt changes to landfill levies.

Levy portability

Levy portability means that landfill levies will be determined by where the waste is generated, rather than where it is landfilled. The Council believes that levies should still apply at landfills, and not upstream at transfer stations or MRFs. In regard to 'portability' the Council notes;

- Levy charges based on point of waste generation are already in place in both NSW and South Australia and Western Australia (within the State boundaries).
- Preliminary legal advice has been received which says 'portability' is not in conflict with Section 92 of the Constitution or Section 90.
- The approach allows for future regulatory changes in regard to levies, including introducing a levy in Queensland. This could be done without repealing or changing 'levy portability'.
- The approach of 'levy portability' was ratified by NWRIC meeting in June 2017.

Several large operating landfills current use this process. Veolia's Woodlawn Facility is not in the Sydney Metro Levy Zone but receives the majority of its waste from this region and charges a levy accordingly. Similarly, Cleanaway's landfill in the Shire of Dardanup, approximately 20km south east of Bunbury charges the Perth Metro Levy for waste received from this area. Therefore, this reporting process is proven.

The implementation of 'portability'

The NWRIC believes levy portability can be introduced by reciprocal agreement between the implicated States; Queensland, NSW, Victoria and SA. The Council is aware that Victoria currently does not differentiate levies by where waste is generated. Therefore additional regulatory change may be required in Victoria.

The process could begin between NSW and Queensland, and then extend to other States. By implication, if this process is extended, a greater number of landfills will have to equipped to charge a levy. Further, this process will strongly incentivise waste being processed as close to its point of generation as possible. The NWRIC believe this is desirable as it will help advance resource recovery investment.

The process can be legally achieved by aligning the levy legislation within these states, and then by inserting additional levy licence conditions into all landfill licences in the relevant states. The NWRIC believes any landfill levy collected from 'out of State' should be initially remitted to the host State.

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The NWRIC believes the reporting obligation for this process should remain with the waste generator but the levy remittance obligation should remain with the landfill. This can be made more secure by landfill owners requesting a Statutory Declaration to confirm the point of generation. Diagrams are attached to describe how reporting should occur.

The Council welcomes further correspondence on this matter.

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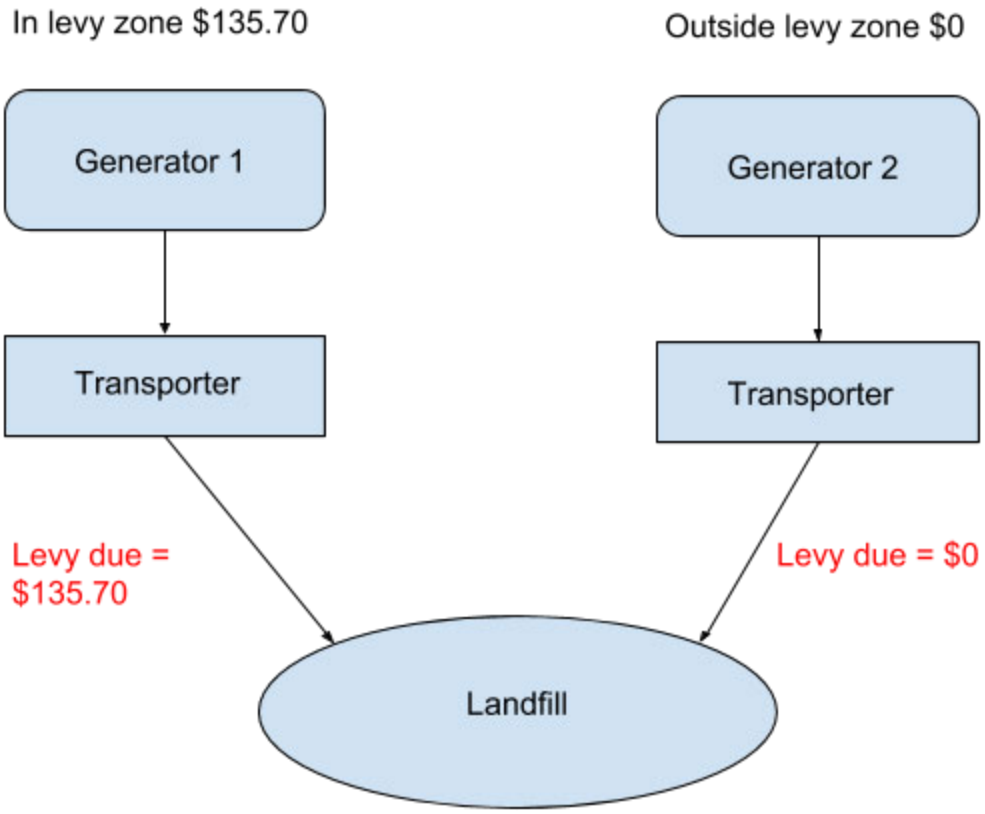
Example 1 - inside & outside levy zones



Confirmation by Statutory Declaration by waste transporter.

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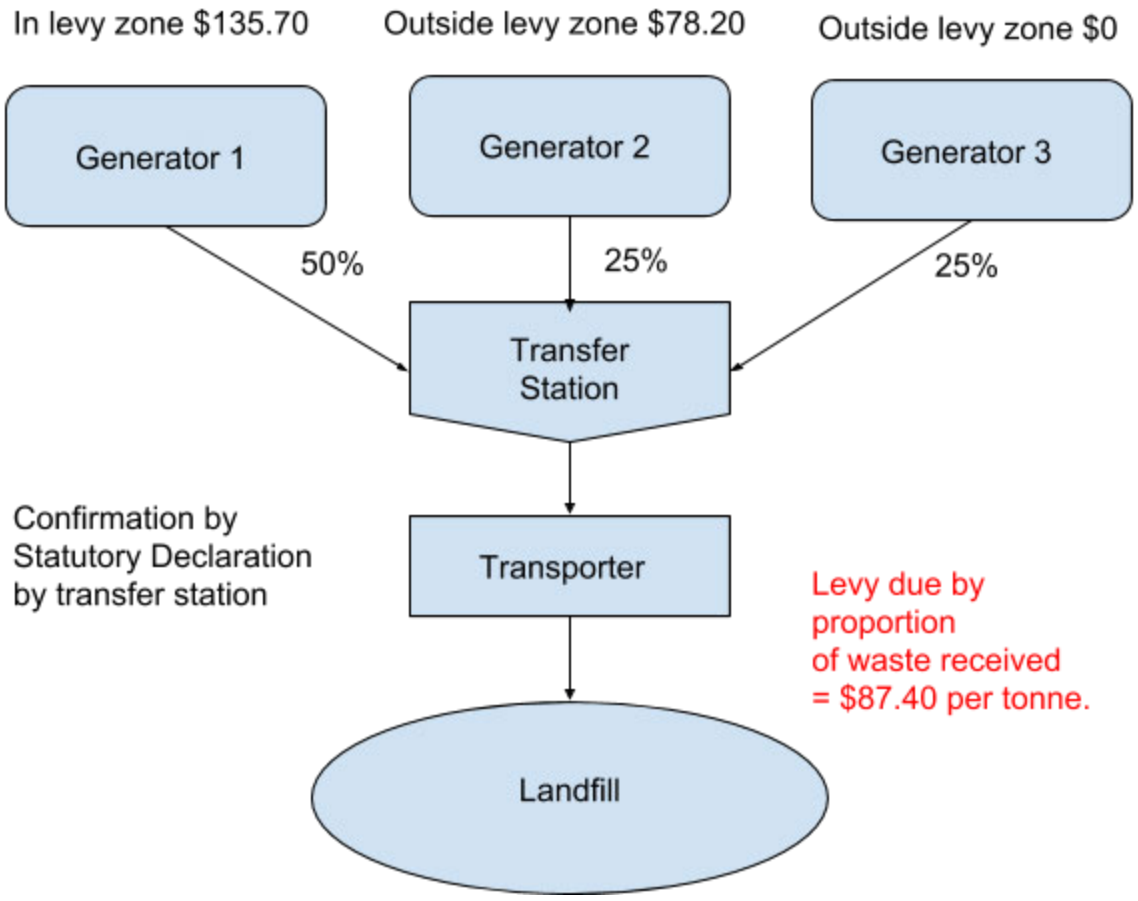
Example 2 - mixed levy zones



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Example 3 - MRF with residuals